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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE O. ARTEAGA,

12 Plaintiff,

13 v.

14 J. GARCIA, et al.,

15 Defendants.
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Case No. 1:22-cv-01292-KES-EPG

ORDER ADOPTING IN PART FINDINGS
AND RECOMMENDATIONS

(Doc. 14)

18 Plaintiff Jose O. Arteaga is a state prisoner proceeding pro se and in forma pauperis in this
19 civil action pursuant to 42 U.S.C. § 1983.

20 The assigned magistrate judge screened plaintiff's complaint and gave leave for plaintiff
21 to either file a First Amended Complaint to cure the deficiencies identified by the court or stand
22 on his complaint. Doc. 8. Among other deficiencies, the screening order noted that plaintiff's
23 171-page complaint improperly asserted unrelated claims in the same action. *Id.* Plaintiff
24 thereafter filed a notice stating that he wished to stand on his complaint. Doc. 11.

25 The magistrate judge subsequently issued findings and recommendations on October 11,
26 2023, recommending that plaintiff's complaint proceed on plaintiff's Eighth Amendment claims
27 against defendants J. Garcia and Fugate for excessive force and on plaintiff's Eighth Amendment
28

1 claim against defendant John Doe #1 for failure to protect. Doc. 14. The magistrate judge
2 recommended that all other claims and defendants be dismissed; however, the findings and
3 recommendations did not review the unrelated claims that were based on events that occurred
4 after plaintiff was placed in administrative segregation. The findings and recommendations
5 notified plaintiff that objections were due within twenty-one days. Plaintiff has not filed
6 objections to the findings and recommendations and the time to do so has passed.

7 In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a de novo review of
8 this case. The findings and recommendations correctly noted that plaintiff adequately stated
9 cognizable claims against defendants J. Garcia and Fugate for excessive force and against
10 defendant John Doe #1 for failure to protect. Doc. 14 at 21.

11 Plaintiff asserts many claims in his complaint, but plaintiff does not adequately allege how
12 all the allegations in the complaint are related or why they should all be maintained in the same
13 action. The findings and recommendations declined to analyze certain claims that are based on
14 events that occurred after plaintiff was placed in administrative segregation, because the claims
15 are unrelated and cannot be brought in the same suit. *Id.* at 21. In considering misjoined claims,
16 district courts must conduct a prejudice analysis before dismissing the severed claims pursuant to
17 Federal Rule of Civil Procedure 21. *Rush v. Sport Chalet, Inc.*, 779 F.3d 973, 975 (9th Cir. 2015)
18 (abuse of discretion to dismiss rather than sever claims against improperly joined parties without
19 evaluating the prejudice to plaintiff of dismissal). The Ninth Circuit has noted that such
20 consideration should include “loss of otherwise timely claims if new suits are blocked by statutes
21 of limitations.” *Rush*, 779 F.3d at 975 (citation omitted).

22 If the unrelated, improperly joined claims are otherwise cognizable, severance of those
23 claims may be warranted if the plaintiff would be prejudiced by their dismissal due to the statute
24 of limitations. Accordingly, the court declines at this time to dismiss plaintiff’s unrelated claims
25 arising from events that occurred after his placement in administrative segregation, pending a
26 further determination as to whether they should be severed or dismissed. This matter is referred
27 to the assigned magistrate judge for further findings and recommendations as to whether those
28 remaining allegations state cognizable claims, and, if so, whether dismissal or severance is

appropriate as to any such remaining claims.

Accordingly, the court ORDERS:

1. The findings and recommendations issued October 11, 2023, are adopted in part;
2. This case proceeds on plaintiff's Eighth Amendment claims against defendants J. Garcia and Fugate for excessive force and on plaintiff's Eighth Amendment failure to protect claim against Defendant John Doe #1;
3. The following claims are dismissed for the reasons set forth in the findings and recommendations:
 - a. Plaintiff's First Amendment retaliation claims against defendants Neve, J. Garcia, and Fugate are dismissed for failure to state a claim;
 - b. To the extent plaintiff brings Section 1983 claims for conspiracy against any defendant, those claims are dismissed for failure to state a claim;
 - c. To the extent plaintiff brings a Sixth Amendment claim based on an alleged coverup against any defendant, those claims are dismissed as not ripe for judicial consideration, without prejudice;
 - d. To the extent plaintiff brings Due Process claims for deliberate fabrication of evidence against any defendant, those claims are dismissed for failure to state a claim;
 - e. Plaintiff's Eighth Amendment deliberate indifference claims against defendants Clark and Amin are dismissed for failure to state a claim;
 - f. Plaintiff's state law medical negligence claims against defendants Clark and Amin are dismissed for failure to allege compliance with the Government Claims Act and for failure to state a claim;
 - g. To the extent plaintiff brings claims based on improper handling of plaintiff's grievances against defendant E. Garcia, those claims are dismissed for failure to state a claim;

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1 4. This case is referred to the assigned magistrate judge for further proceedings as set
2 forth in this order.

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5 IT IS SO ORDERED.

6 Dated: December 27, 2024


UNITED STATES DISTRICT JUDGE